

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NOVARTIS PHARMA AG,

Plaintiff and Counterclaim Defendant,

v.

AMGEN INC.,

Defendant and Counterclaimant.

Case No. 19-cv-2993 (PKC)

**~~PROPOSED~~ ORDER APPOINTING COMMISSIONERS TO TAKE
EVIDENCE PURSUANT TO CHAPTER II, ARTICLE 17 OF THE HAGUE
CONVENTION OF 18 MARCH 1970 ON THE TAKING OF EVIDENCE
ABROAD IN CIVIL OR COMMERCIAL MATTERS**

The Court, having reviewed the papers submitted in support of Plaintiff and Counterclaim-Defendant Novartis Pharma AG (“Novartis Pharma”) and Defendant and Counterclaimant Amgen Inc. (“Amgen”) Joint Motion for Appointment of Commissioners to Take Evidence Pursuant to Chapter II, Article 17 of the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters (the “Motion”), IT IS HEREBY ORDERED THAT:

(a) The Motion is GRANTED;

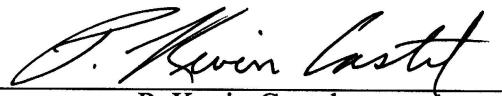
(b) Pursuant to Article 17 of the Hague Convention, David Hille and Isaac Glassman of White & Case LLP, Jeffrey A. Fuisz and Peta Gordon of Arnold & Porter Kaye Scholer LLP, and Martina Athanas of the Swiss law firm of Baer & Karrer AG, all on behalf of Novartis Pharma; Barry H. Berke, Norman C. Simon, and Nolan J. Robinson of Kramer Levin Naftalis & Frankel LLP on behalf of Amgen; and Brian Bank of Rivkin Radler LLP on behalf of third-party Sandoz GmbH (the “Commissioners”) are duly appointed, pending the approval of the Swiss Federal

Department of Justice and Police (“FDJP”), as Commissioners to take evidence in the above-captioned action, specifically in connection with the depositions of Steffen Lang (Global Head, Novartis Technical Operations), Charles Bailey (Head of Business Development & Licensing, Novartis Global Health) and Johannes Reiter (Director Global Alliance Management, BD&L Biopharmaceuticals, Sandoz International GmbH) in their individual capacities; Gregor von Arx (Global Head Legal, Neuroscience Franchise), Christian Klemm (General Counsel and Global Head Legal, Novartis Technical Operations & Group Quality), Matthew Zeller (General Manager, Novartis Pharma Hungary), and Mr. Bailey who will testify on behalf of Novartis Pharma pursuant to Amgen’s Amended Rule 30(b)(6) notice served on Novartis Pharma on April 2, 2020, subject to the parties’ subsequent agreements regarding the scope of the topics in the notice; and Wolfgang Walcher (Head Global Biotech Cooperations, Sandoz GmbH) who will testify on behalf of Sandoz GmbH pursuant to Amgen’s Rule 30(b)(6) notice served on Sandoz GmbH on April 23, 2020, subject to the parties’ subsequent agreements regarding the scope of the topics in the notice;

(c) This signed Order will be given to the counsel for the parties who are directed to file it together with the necessary application for authorization from the relevant Swiss authorities within five (5) business days of the date of this order;

(d) Neither this Order, nor the terms of the Court’s Request (which is incorporated into this Order) shall constitute or operate as a waiver of the attorney-client privilege, the work product doctrine, or any other privileges, rights, or protections that may apply to evidence under the laws of Switzerland or the United States.

SO ORDERED: January 14, 2021


P. Kevin Castel
United States District Judge